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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOE subscriber assigned IP address  
100.35.182.116,

Defendant.

Case No. 2:18-cv-00137-ES-SCM

**PLAINTIFF'S FIRST MOTION FOR EXTENSION OF TIME WITHIN  
WHICH IT HAS TO SERVE JOHN DOE DEFENDANT WITH A  
SUMMONS AND AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 4(m), Plaintiff, Malibu Media, LLC, moves for entry of an order extending the time within which Plaintiff has to serve the John Doe Defendant with a Summons and Amended Complaint, and states:

1. This is a copyright infringement case against a John Doe Defendant known to Plaintiff only by an IP address. Defendant's true identity is known by their

Internet service provider (“ISP”).

2. Pursuant to Fed. R. Civ. P. 4(m), “if the plaintiff shows good cause ... the court must extend the time for service for an appropriate period.” To show good cause, a party “must demonstrate that it made a good faith effort to comply with the rule as well as provide some reasonable justification for its noncompliance.” *Suegart v. U.S. Customs Serv.*, 180 F.R.D. 276, 279 (E.D. Pa. 1998). In determining whether good cause for the extension of time for service exists, district courts consider: “(1) reasonableness of plaintiff’s efforts to serve (2) prejudice to the defendant by lack of timely service and (3) whether plaintiff moved for an enlargement of time to serve.” *Cunningham v. New Jersey*, 230 F.R.D. 391, 393 (D.N.J. 2005).

3. Plaintiff commenced this action against the internet subscriber assigned IP 100.35.182.116 (“Defendant”) on January 05, 2018, at which time it filed a complaint alleging that Defendant copied and distributed one or more of Plaintiff’s copyrighted works, all without Plaintiff’s consent. *See* CM/ECF 1. Plaintiff asserted a claim for direct copyright infringement, and requested that Defendant delete and permanently remove, and be enjoined from continuing to infringe, Plaintiff’s copyrighted works. *See id.*

4. On January 26, 2018, Plaintiff was granted leave to serve a third-party subpoena on Defendant’s ISP, Verizon, to obtain the Defendant’s identifying information [CM/ECF 6]. Plaintiff issued the subpoena on January 26, 2018 and

received the ISP's response on March 5, 2018.

5. Upon receipt of the subscriber's identifying information, Plaintiff conducted a thorough investigation and determined that the subscriber was indeed the infringer.

6. Accordingly, Plaintiff filed its Amended Complaint to name the Defendant [CM/ECF 7] and requested that the Clerk issue a summons as to the Defendant. The Court issued the summons on March 23, 2018 [CM/ECF 09].

7. On or about April 05, 2018, Plaintiff sent the Summons and Amended Complaint to its process server. The process server is attempting to serve the Defendant at his home.

8. Pursuant to Fed. R. Civ. P. 4(m), Plaintiff is required to effectuate service on Defendant no later than April 5, 2018.

9. Procedurally, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Amended Complaint on Defendant be extended until at least fifteen (15) days, or until April 20, 2018.

10. This motion is made in good faith and not for the purpose of undue delay.

11. None of the parties will be prejudiced by the granting of this extension.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Amended Complaint on Defendant be

extended until April 20, 2018. A proposed order is attached for the Court's convenience.

Dated: April 5, 2018

Respectfully submitted,

By: /s/ Patrick J. Cerillo  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on April 5, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Patrick J. Cerillo